

Janet Napolitano Governor Albert Ray Tuttle, P.A.-C Chairman Timothy C. Miller, J.D. Executive Director

FINAL MINUTES FOR REGULAR SESSION MEETING
Held at 1:00 p.m. on March 1, 2006
9535 E. Doubletree Ranch Road · Scottsdale, Arizona

Board Members

Albert Ray Tuttle, P.A.-C, Chair
Joan M. Reynolds, P.A.-C, Vice Chair
Randy D. Danielsen, Ph.D., P.A.-C
Michael E. Goodwin, P.A.-C
James Edward Meyer, M.D.
Sigmund Popko, J.D., Public Member
Anna Marie Prassa, Public Member
Peter C. Wagner, D.O.
Kelli M. Ward, D.O.
Barry D. Weiss, M.D., FAAFP

WEDNESDAY, March 1, 2006

CALL TO ORDER

Albert Ray Tuttle, P.A.- C, Chair called the Meeting to Order at 1:00 p.m.

ROLL CALL

The following Board Members were present: Albert R. Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James E. Meyer, M.D., Sigmund Popko, J.D., Anna M. Prassa, Peter C. Wagner, D.O. Kelli M. Ward, D.O., Barry D. Weiss, M.D.

CALL TO THE PUBLIC

Statements issued during the call to the public appear beneath the case referenced.

Executive Director's Report

Mr. Timothy Miller, J.D., Executive Director gave a summary on the state of the Agency. He reported the Agency is in good condition and he referred to a Performance Indicators memorandum that showed Staff completed 70 cases within the past year. Mr. Miller said the Agency is completing cases faster than it receives them while still maintaining a thorough investigation. He also said that, to date, less than 2% of the open caseload (15 cases) are cases from before 2005. Mr. Miller said it will take sometime to bring down the average time it takes to complete an investigation because the old cases push average numbers up. Mr. Miller also noted that Staff turnover is now at the state average and the Agency's fluctuation in staff turnover has come to a conclusion. Mr. Miller noted the last report from the Auditor General's office found the Medical Board in complete compliance and is now out from under the scrutiny of the Auditor General.

Mr. Miller also said the Agency is constantly making Internet Technology improvements, and he told the Board members that by the next Board meeting the materials for the cases will be on a confidential website, so that they will not have to access the materials from a CD that is mailed to them. He said the timeframe for accessing the materials should be the same as when the CD is regularly mailed out.

Legislative Report:

Mr. Timothy Miller, J.D., Executive Director referred to a portion of the Weekly Legislative Report, as received from Stuart Goodman's office, discussing only those issues that were of interest to the Arizona Regulatory Board of Physician Assistants.

<u>House Bill 2240</u>- Mr. Miller explained that sometimes at the end of the fiscal year, state agencies end up with an excess of funds that are swept to the State's General Fund. This bill is written so that if there is excess funding at the end of the year, the Agency would be required to reduce licensure fees for the upcoming year. Mr. Miller said this bill does not take into consideration agencies like the Arizona Regulatory Board of Physician Assistants that collect license fees every other year to provide funds to the Agency for a two year period.

<u>House Bill 2426</u>- This Bill concerns physicians who are raising prices when billing. This Bill would require each person to bill for services under their own name, which would place additional responsibility on the individual to bill correctly.

Final Minutes for the March 1, 2006 ARBoPA Board Meeting

<u>House Bill 2786</u>- This Bill places a burden on agencies to maintain and distribute abandoned medical records, without providing additional funding to the Board to take on the new task.

<u>Senate Bill 1277</u>- This Bill allows surgical assistants to receive direct payment by unbundling their services from the surgery fees and would bill a patient's insurance separately.

<u>Senate Bill 1441</u>- This Bill appropriates money for the medical boards so the medical student loans and scholarships do not have to be swept from the Board's existing funds.

Election of Officers

MOTION: Randy Danielsen, Ph.D, P.A.-C moved to retain Albert R Tuttle, P.A.-C as Chairman and to retain Joan M. Reynolds, P.A.-C as Vice Chair.

SECONDED: Michael E. Goodwin, P.A.

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

MOTION PASSED.

Establish Standing Committee to Review Minor Surgical Procedures

Albert Ray Tuttle, P.A.-C, said the state of Ohio recently passed legislation for Physician Assistants that delineated specific privileges. Mr. Tuttle said he would like to establish a standing committee for that same purpose.

MOTION: Randy Danielsen, Ph.D, P.A.-C moved to establish a Minor Surgical Procedural Review Committee.

SECONDED: Joan M. Reynolds, P.A.-C

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

MOTION PASSED.

MOTION: Kelli M. Ward, D.O. moved to elect the following members to the Minor Surgical Review Committee: Randy Danielsen, Ph.D, P.A.-C, Peter C. Wagner, D.O., Michael E. Goodwin, P.A., and Albert Ray Tuttle, P.A.-C

SECONDED: James E. Meyers, M.D.

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

MOTION PASSED.

Approval of Minutes

MOTION: Randy Danielson, Ph.D, P.A.-C moved to approve the November 16, 2005 Meeting Minutes.

SECONDED: Anna Marie Prassa

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

Motion Passed.

NON-TIME SPECIFIC ITEMS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT			RESOLUTION						
1.	PA-05-0038A	ARBOPA	KATHLEEN KING, P.AC	Accept License		Consent	Agreement	for	Surrender	of	Active

MOTION: Randy Danielsen, Ph.D., P.A.-C moved to accept the Consent Agreement for Surrender of Active License. SECONDED: Anna Marie Prassa

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Albert R. Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James E. Meyer, M.D., Sigmund Popko, J.D., Anna M. Prassa, Peter C. Wagner, D.O. Kelli M. Ward, D.O., Barry D. Weiss, M.D., FAAFP

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

MOTION PASSED.

NO.	CASE NO.	COMPLA	INANT v PHYSICIAN ASSISTANT	RESOLUTION
2.	PA-04-0068A	ARBOPA	MICHAEL MILLETTE, P.AC	Accept the Draft Findings of Fact Conclusions of Law and Order for a Letter of Reprimand for habitual intemperance and for violating a formal Board order, and a five year Probation with participation in MAP.

Albert Ray Tuttle, P.A.-C said that Michael Millette, P.A.-C had done well in treatment and was ready to be accepted into the MAP program with the Arizona Regulatory Board of Physician Assistants.

MOTION: Joan M. Reynolds, P.A.-C moved to accept the Draft Findings of Fact Conclusions of Law and Order for a Letter of Reprimand for habitual intemperance and for violating a formal Board order, and a five year Probation with participation in MAP.

SECONDED: Anna Marie Prassa VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent Motion Passed.

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FORMAL INTERVIEWS

NO.	CASE NO.	COMPLA	INANT v PHYSICIAN	RESOLUTION
1.	PA-03-0036A	A.D.	JAN HUGHES, PAC	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for furnishing prescription medications without first conducting a physical examination or having previously established a professional relationship with that person, prescribing controlled substances or prescription only drugs in excess of the amount authorized and for prescribed controlled substances to a member of her immediate family. One (1) year Probation to complete 20 hours of continuing medical education in ethics that would include appropriate prescribing and boundary issues.

Jan Hughes, P.A.-C was present with Counsel Ms. Mary Prior.

Mary Carmen Martinez, Senior Medical Investigator presented the case to the Board. On November 6, 2003 the Arizona Regulatory Board of Physician Assistants received a complaint alleging P.A. Hughes prescribed medications to several patients without an evaluation, had prescribed to members of her family and was practicing without supervision. Additionally, P.A. Hughes provided false information to the Board in her response and she admitted to this during her investigational interview with the Staff. During the investigational interview, upon seeing the pharmacy profile, she admitted prescribing to her family members. The Board discussed a proposed consent agreement at their August 2005 meeting and voted to reject the agreement and send the case back for further investigation to see if there was a pattern or history for inappropriate prescribing for patients. During the further investigation, Staff discovered P.A. Hughes had refilled prescriptions when she was not authorized to do so.

P.A. Hughes addressed the Board. She said she admitted to the allegations of the case, but contended she was not blatantly ignoring the regulations and rules, but simply did not take time to familiarize herself with the rules and regulations of the agency.

Randy Danielsen, Ph.D., P.A.-C led the questioning. He noted P.A. Hughes had prescribed to her ex-husband J.H., without conducting a history and physical exam. P.A. Hughes said J.H. was under a physician's care for the medications she prescribed and she was trying to help him as he lost his medical insurance and could not follow up with the psychiatrist who had prescribed the medications. P.A. Hughes said she felt she was using prudent judgment in her prescribing decisions and did not know an office visit was required or that she needed to document her care.

P.A. Hughes said the ball was dropped by staff to complete the paperwork process to establish her supervising physician. She said she has letters testifying she was under direct supervision by a neonatologist and consulted with that physician daily.

Peter C. Wagner, D.O. said he found it troubling that P.A. Hughes was not forthright with the Board initially. P.A. Hughes said her mistakes in this case have taught her a lesson and she has paid for it by both personal and professional embarrassment and personal stress. P.A. Hughes said she will not make the errors in this case again. She was dishonest because she acted out of fear at the start of the case. P.A. Hughes said she did not cause patient harm for the medications prescribed, she did not use the medications for herself, and the prescribing dosing numbers were not such that she could gain any financial benefit.

Barry Weiss, M.D. said he found that P.A. Hughes prescribed medications without maintaining medical records, showing she did not demonstrate use of prudent professional judgment. Kelli M. Ward, D.O. said the prescribing for J.H. demonstrated an excess of what would be a therapeutic dosage.

Ms. Prior addressed the Board and said P.A. Hughes has taken action to prevent this situation from happening again. She said she does not carry a prescription pad with her so she will not be asked for a prescription. She said the incidents in this case occurred the first year she was a physician assistant and that she has remorse for her actions. She said the lack of physician supervision was an administrative oversight.

MOTION: Randy Danielsen, Ph.D., P.A.-C moved to find Unprofessional Conduct for a violation of A.R.S. §32-2501(21)(i)-Prescribing or dispensing controlled substances or prescription-only drugs for which the physician assistant is not approved or in excess of the amount authorized pursuant to this chapter, A.R.S. §32-2501(21)(p)- Failing or refusing to maintain adequate records on a patient, A.R.S. §32-2501(21)(r)- Prescribing or dispensing controlled substances to members of the physician assistant's immediate family, A.R.S. §32-2501(21)(x)- Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate a provision of this chapter, A.R.S. §32-2501(21)(bb) Knowingly making a false or misleading statement on a form required by the board or in written correspondence or attachments furnished to the board, A.R.S. §32-2501(21)(kk)- Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical examination of that person or has previously established a professional relationship with the person.

SECONDED: Peter C. Wagner, D.O.

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

Motion Passed.

MOTION: Randy Danielsen, Ph.D., P.A.-C moved to Draft Findings of Fact Conclusions of Law and Order for a Letter of Reprimand for furnishing prescription medications without first conducting a physical examination or having previously established a professional relationship with that person, prescribing controlled substances or prescription only drugs in excess of the amount authorized and for prescribed controlled substances to a member of her immediate family.

SECONDED: Joan M. Reynolds, P.A.-C

Dr. Weiss said he felt CME would be helpful for this physician assistant because her inappropriate prescribing did not demonstrate a one time lapse in judgment. Kelli M. Ward, D.O. noted the inappropriate prescribing occurred two and a half to three years previously and there have been no repeat occurrences since that time.

Barry Weiss, M.D. said he would like to see P.A. Hughes complete 30 hours of approved continuing medical education (CME) of which 10 hours would be for prescribing ethics and the remaining 20 hours would be for the proper use of psychiatric drugs for treatment of psychiatric conditions.

Kelli M. Ward, D.O. noted the physician assistant had limited her practice to neonatology and that CME for proper use of psychiatric drugs would be completely outside her scope of practice. Dr. Weiss said he felt CME in psychiatric prescribing would be helpful because she had previously inappropriately refilled a psychiatric medication for J.H. Ms. Prassa also said she did not understand how 20 hours of CME in the use of psychiatric drugs would benefit her in her future practice and said she would prefer to see the physician assistant educated in her field of passion if the Board's desire was for continuing education.

MOTION: Barry Weiss, M.D. moved to amend the motion and issue a Letter of Reprimand for furnishing prescription medications without first conducting a physical examination or having previously established a professional relationship with that person, prescribing controlled substances or prescription only drugs in excess of the amount authorized and for prescribed controlled substances to a member of her immediate family. One (1) year Probation to complete 20 hours of continuing medical education in ethics that would include appropriate prescribing and boundary issues.

SECONDED: Peter C. Wagner, D.O.
ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Albert R. Tuttle, P.A.-C,
Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James E. Meyer, M.D., Sigmund Popko,
J.D., Anna M. Prassa, Peter C. Wagner, D.O. Kelli M. Ward, D.O., Barry D. Weiss, M.D., FAAFP

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

MOTION PASSED.

NO.	CASE NO.	COMPLA	INANT v PHYSICIAN	RESOLUTION
2.	PA-04-0047A	M.L.	MARY JOSEPHS, P.AC	Dismiss

Mary Josephs, P.A.-C was present with counsel Mr. Wayne Turley.

Patricia McSorley, Senior Medical Investigator summarized the case for the Board. The case was brought to the Board's attention as the result of a medical malpractice lawsuit. P.A. Josephs admitted to ordering her own mammogram by writing and singing the order, without a supervising physician. P.A. Josephs claimed she did not know she could not order her own lab work. P.A. Joseph's supervising physician said she was not aware the mammogram order was written and did not approve for it to be done, although the order was written on the supervising physician's prescription pad. There was also an allegation that P.A. Josephs forged her treating physician's signature. During the deposition of the lawsuit, P.A. Josephs said she did not order her own mammogram.

P.A. Josephs addressed the Board and said she did not know there was a statute that prohibited physician assistants from ordering their own lab work. She said she had no intent of deceit and that she signed her own name on the order the same way she has signed her name for the past eleven years. P.A. Josephs said that during the deposition she did not remember that she ordered her own lab work and was reminded of it later.

Sigmund G. Popko led the questioning and asked why P.A. Josephs had not allowed her treating physician to write the order for her mammogram. P.A. Josephs said she had written the order because the office was being rigid and would not schedule a mammogram for patients if there was not an order written for the lab work.

MOTION: Sigmund G. Popko moved to Dismiss the case.

SECONDED: Michael E. Goodwin, P.A.

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Albert R. Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James E. Meyer, M.D., Sigmund Popko, J.D., Anna M. Prassa, Peter C. Wagner, D.O. Kelli M. Ward, D.O., Barry D. Weiss, M.D., FAAFP

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

Motion Passed.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		RESOLUTION
3.	PA-04-0052A	ARBOPA	LEON GARZA, P.AC	Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure for prescribing controlled substances in excess of the amount authorized and being deficient in notifying the Arizona Board of Physician Assistants of his authorizing physician and be placed on Probation for one year restricting his prescribing of schedule II, III, VI and V drugs.

Leon Garza, P.A.-C was present without counsel. Kelly Sems, M.D., Medical Consultant presented the case. The Board received a complaint from a pharmacist at Fort Mohave Medical Center alleging P.A. Garza had prescribed Category III narcotics in excess of 14 days allowed by this Arizona license. The Medical Consultant reviewed six charts for the case and found P.A. Garza inappropriately prescribed narcotic analgesics in quantities over the allowed two week period. The Medical Consultant also found the medical records did not follow the proper guidelines for prescribing narcotics. In review of one of the medical records it was also discovered that P.A. Garza continued to prescribe narcotic analgesics for a patient who was diagnosed with addiction to controlled prescription medications. It was also found P.A. Garza did not notify the Board of his current medical supervisor.

P.A. Garza addressed the issue of prescribing longer than a 14 day period. He said he had worked the majority of his career in California where they do not have similar statutes of limitations for prescribing. He said he simply was not aware of the Arizona statutes and that he was in violation of the law. P.A. Garza also said he was under the assumption he was being supervised because he submitted the appropriate paperwork to his facility and did not realize the staff failed to complete the process of submitting the paperwork to the Board. P.A. Garza also said he attempted to refer patients for pain management on several occasions but was denied by the system he worked for and that it was a very difficult system to work under.

Randy Danielsen, Ph.D, P.A. led the questioning. He noted P.A. Garza had a prior Board History of two previous Advisory Letters for inappropriate prescribing in the years 1990 and 1991. P.A. Garza said he did not recall why he was given the Advisory Letters but believed it was due to his signatures on a prescription and not an inappropriate prescribing issue. James E. Meyer, M.D. read the finding for the two Advisory Letters and noted they were specifically for inappropriate prescribing, among other allegations. Dr. Meyers said P.A. Garza did not seem to understand his pattern of overprescribing or have a healthy respect for the Arizona statutes that regulate his practice.

MOTION: Randy Danielsen, Ph.D, P.A. moved to find unprofessional conduct in violation of A.R.S. §32-2501 (21)(j)- Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public, A.R.S. §32-2501(21)(i)- Prescribing or dispensing controlled substances or prescription-only drugs for which the physician assistant is not approved or in excess of the amount authorized pursuant to this chapter and A.R.S. §32-2534(a)- A physician assistant shall not perform health care tasks until the supervising physician receives approval of the notification of supervision from the board. SECONDED: Barry Weiss, M.D.

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

Motion Passed.

MOTION: Randy Danielsen, Ph.D, P.A. moved to Draft Findings of Fact, Conclusions of Law for a Letter of Reprimand for prescribing controlled substances or prescription only drugs for an amount of time not authorized and for being deficient in notifying the Arizona Board of Physician Assistants regarding his current supervising physician, a one year Probation to include 10 CME in pharmacol therapeutics and narcotic prescribing.

SECONDED: Peter C. Wagner, D.O.

Michael E. Goodwin, P.A. said he found no evidence that P.A. Garza has knowledge of his inappropriate prescribing practices. Barry Weiss, M.D. said he felt his license should be taken away because this was his third offense before the Arizona Medical Board with no apparent remediation. He also said he felt the physician assistant displayed a lack of cognitive abilities in the way he answered the questions before the Board and questioned if P.A. Garza was capable to practice.

The Board went into Executive Session at 3:14 p.m.

The Board returned to Open Session at 3:30 p.m.

P.A. Danielsen withdrew the motion for disciplinary action.

MOTION: Randy Danielsen, Ph.D, P.A. moved to Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure for prescribing controlled substances in excess of the amount authorized and being deficient in notifying the Arizona Board of Physician Assistants of his authorizing physician and be placed on Probation for one year restricting his prescribing of schedule II, III, VI and V drugs.

SECONDED: Michael E. Goodwin, P.A.

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Albert R. Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James E. Meyer, M.D., Sigmund Popko, J.D., Anna M. Prassa, Peter C. Wagner, D.O. Kelli M. Ward, D.O., Barry D. Weiss, M.D.

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

MOTION PASSED.

Dr. Weiss said he observed on numerous occasions during the interview with P.A. Garza that it appeared he either did not understand the questions of the Board or did not remember answers to obvious questions, such as the reason why he had been cited by the Board on two previous occasions, along with another number of things he said he could not remember. He said this raised a question in his mind of his

level of cognitive competence and ability to practice safely. Dr. Weiss said he would like to see P.A. Garza undergo a psychological/psychiatric evaluation.

P.A. Garza said he had current health issues requiring the possibility of a major surgery in the near future and said he would need the Board's Staff to work out some flexibility in order to complete a psychological/psychiatric evaluation. The Board said it is the Staff's practice to be flexible in this regard.

MOTION: Barry Weiss, M.D. moved to open a new investigation into P.A. Garza's performance to include a psychological/psychiatric evaluation and PACE exam to evaluate medical competence and knowledge and to include an additional evaluation to review P.A. Garza's medical conditions and subsequent medications in relation to his ability to safely practice medicine. All evaluations would be obtained at P.A. Garza's expense and shall be completed and returned to the Board within 90 days.

SECONDED: Joan M. Reynolds, P.A.-C

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

Motion Passed.

FORMAL HEARING MATTERS

NO.	CASE NO.	СОМ	PLAINANT v PHYSICIAN	RESOLUTION
1.	PA-03-0026A	AMB	INAKI INE E SANDERS PA-L.	Accept the Findings of Fact, Conclusions of Law and the ALJ recommended Order for Revocation of license

Dean Brekke, Assistant Attorney General presented the case. Karlyne Sanders, P.A.-C had been involved in car accident and was given a blood test by the hospital where she was taken. The blood test was positive for cocaine and other narcotics. As a result, her supervising physician released her from supervision. The Arizona Medical Board Staff has been unable to locate P.A. Sanders for several months. The case was referred to Formal Hearing in December 2005 and the Administrative Law Judge recommended Revocation of the license.

MOTION: Joan M. Reynolds, P.A.-C moved to accept the Findings of Fact as approved by the Administrative Law Judge.

SECONDED: Randy Danielsen, Ph.D., P.A.-C

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

Motion Passed.

MOTION: Joan M. Reynolds, P.A.-C moved to accept the Conclusion of Law as approved by the Administrative Law Judge.

SECONDED: Anna Marie Prassa

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 0-absent

Motion Passed.

MOTION: Joan M. Reynolds, P.A.-C moved to accept the ALJ recommended order for Revocation of license.

SECONDED: Anna Marie Prassa

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Albert R. Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James E. Meyer, M.D., Sigmund Popko, J.D., Anna M. Prassa, Peter C. Wagner, D.O. Kelli M. Ward, D.O., Barry D. Weiss, M.D., FAAFP

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 1-absent

MOTION PASSED.

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Timothy C. Miller, J.D., Executive Director

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